

City of San Diego
Progress Report to PS&NS Committee
August 8, 2001
Medical Marijuana Task Force
Chair: Juliana B. Humphrey

Background:

This Council resolved to form the Proposition 215 Implementation Task Force (renamed "Medical Marijuana Task Force") on May 22, 2001. The Task Force was asked to focus its efforts on the following tasks:

- A. Investigate the existing local Prop. 215 advocacy network, determine whether information is readily available to eligible patient groups, and devise what additional means may be needed for outreach;
- B. Monitor local law enforcement efforts and the activities of the DA's Working Group and report findings to the Council;
- C. Monitor research efforts germane to Prop.215 and report findings to Council;
Monitor and support legislative efforts at the State level that seek to help local
- D. municipalities in their efforts to respond to Prop. 215.

Task Force members included patients, doctors, health advocates, community activists, legal advocates, business people, attorneys, and law enforcement.

Progress Summary:

The Task Force has held two general meetings since its formation. At the first meeting on June 22, 2001, subcommittees were formed in accordance with the tasks outlined by the Council:

- 1. Patient/Doctor Advocacy and Outreach
- 2. Law Enforcement
- 3. Medical Research
- 4. Legislative Efforts

The Task Force discussed topics relevant to its tasks and assigned them for closer review by appropriate subcommittees. Of immediate concern was State Senate Bill 187, a proposal for voluntary patient registration for use of medical marijuana. Additional topics included: identification of physician issues associated with recommendations for medical

marijuana; information and/or guidelines from the District Attorney's working group on medical marijuana; inclusion of spacticity in the medical research on marijuana; and information regarding medical marijuana arrests by the San Diego Police Department.

After the subcommittees met and we had our second general meeting on July 20, 2001. At the Chair's suggestion, it was decided that one more subcommittee be formed – "Activists" – to more fully represent the community of interests on this issue and to better accomplish the tasks assigned to the Task Force.

The Patient/Doctor subcommittee chair reported on its first meeting where it was decided that two questionnaires, one for doctors and one for patients, would be helpful to establish the needs of the community. The drafts of the questionnaires will be available to the Task Force for comment before they are disseminated. A news release upon the distribution of the questionnaires was suggested as being helpful to raise community awareness and participation.

The Law Enforcement subcommittee reported that Lt. Carl Black attended their meeting to discuss SDPD's protocol regarding medical marijuana claims. Lt. Black explained that contacts involving patients using marijuana usually arose out of some other type of call (e.g. domestic disturbance) rather than a direct complaint about narcotics. If an officer sees marijuana during such a call, and the owner of the marijuana claims medical use, the narcotics team is called and responds to the situation. This protocol is designed to avoid disparate treatment by using trained officers to assess the legitimacy of the claim of medical use on the spot. The lieutenant stressed that California Health & Safety Code 11362.5 provides for a *defense* to a charge not immunity from arrest. (Chair note: Lt. Black's opinion comports with the published case law to date.) Nonetheless, the narcotics team would rather make the judgment call correctly at the scene (leaving the patient with his medicine v. arrest).

Lt. Black told the subcommittee that since July 1999, there have been only nine (9) reported contacts with persons claiming use of medical marijuana. That figure would not include persons outside the city, or those contacted where the narcotics team was not called and no arrest was made. Some Task Force members expressed surprise and disagreement with the lieutenant's information. There was a general consensus that despite the reasonableness of the protocol described there are still patients and doctors afraid to avail themselves of the law for fear of arrest and prosecution.

The Legislative subcommittee gave its report on SB187 and its status in the legislative process. The Task Force discussed various provisions in the bill and ultimately found it satisfactory to meet the needs of the community on the issue of legitimate patient identification. The subcommittee suggested some modifications for the future implementation of the law. The Task Force was persuaded to support this legislation in part because several different groups backed it, including patient groups and SDPD. A

motion carried to ask this Council to support its passage. [See attached memo of July 24, 2001.] It was also decided to write to the City Attorney to ask him to support SB187. The Medical Research subcommittee chair reported that Dr. Drew Mattison from UCSD, a doctor appointed to the Task Force and assigned to his committee had to resign. It was proposed and agreed upon that a UCSD colleague of Dr. Mattison's be appointed in his place. UCSD has received funding for one of the nation's first studies of the therapeutic medical uses of marijuana and a representative from this research could provide needed insights to the Task Force.

The Task Force also heard from the public at its second meeting. There was a lively and informative discussion of the lack of racial and ethnic diversity on the Task Force. The chair invited interested persons to join a subcommittee to provide an immediate remedy to this issue. In addition, two people volunteered to serve on the Task Force.

Also discussed in the public comment portion was a recent police detention of a medical marijuana user. As many details remained unknown, it was decided to wait and get more information before deciding on any course of action.

Timeline and Goals:

The Task Force agreed to report its progress in this report (August 8, 2001), early in the new year and finally in August 2002. Interim reports or memos may also be submitted to the Mayor and Council as issues arise.

As its goals, the Task Force hopes to suggest answers to some of the questions about the law that have heretofore inhibited its full implementation, frustrating patients, caregivers, doctors, law enforcement, and the voters who passed it. These questions include:

- ! How is an eligible patient identified?
- ! How do doctors comply with the law?
- ! How do patients find out about law enforcement protocols?
- ! How may a patient obtain marijuana?
- ! What is an appropriate marijuana supply for a patient?
- ! Who can qualify as a "caregiver" under the initiative's intent?

If SB 187 becomes law, the first question is answered for our community. The Medical Marijuana Task Force will continue its efforts to find solutions to these and other questions necessary to fully realize the promise of Proposition 215 in our community.

City of San Diego
Medical Marijuana Task Force

Date: July 24, 2001

To: Honorable Mayor Richard Murphy
City of San Diego Council Members

From: Juliana B. Humphrey, Chair
Dale Kelly Bankhead, Legislative Subcommittee Chair
Medical Marijuana Task Force

Re: Senate Bill 187: Medical Marijuana Patient Registry

On May 22, 2001, this Council resolved to form the Medical Marijuana Task Force to “determine the most efficient way to regulate the use of medical marijuana in accordance with Proposition 215, passed by the voters in 1996.” In furtherance of our mission, the Task Force respectfully urges this City Council to support State Senate Bill 187, the voluntary patient registry for use of medical marijuana. This bill is pending in the Assembly Appropriations Committee.

SB 187 resolves part of the Prop. 215 implementation puzzle: how does law enforcement accurately identify persons entitled to use marijuana as medicine? This bill provides for government-issued identification for patients who use medical marijuana to display to law enforcement or others attempting to interpret and follow the law. Counties, through their health and human services departments, would investigate and issue these ID cards. No longer will the officer on the beat be required to assess the validity of a doctor’s letter or a person’s claimed illness -- a process which could take hours and could result in uneven application of the law. If SB 187 passed, the identification card would suffice as instant proof of a person’s medical condition and right to use marijuana as medicine.

The identification process proposed in SB 187 is supported by the Office of the Attorney General, the California District Attorneys Association, the California State Sheriffs Association and the San Diego Police Department.

If there is any further information that the Task Force could supply to this Council regarding SB 187, we would be pleased to respond. Thank you for your attention to this matter.

Juliana B. Humphrey

Dale Kelly Bankhead